

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

January 31, 2007

In re Application of: Cris E. Pasto
Serial No. 10/720,997
Filed: 11/24/2003
For: **METHOD AND APPARATUS FOR BUTTRESS STABILIZATION**
Examiner: Chan, Ko Hung
Art Unit: 3632
Attorney Docket No.: RQJ-005CIP
Confirmation No.: 3390

RESPONSE TO OFFICE ACTION

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

R E M A R K S

The Office Action of November 2, 2006 has been reviewed and its contents carefully noted. Reconsideration of this case is earnestly requested. Claims 1-20 and 25-26 are pending in the application.

Allowable Subject Matter

Applicant gratefully acknowledges the Examiner's statement that claims 10-20 and 25-26 are allowed.

Objection to Claims 2-9

Claims 2-9 were objected to as depending from a rejected base claim, however, the Examiner states that claims 2-9 would be allowable, if rewritten in independent form. Applicant respectfully defers such amendment, as it is believed that claim 1 should be allowable, as explained below. Reconsideration and withdrawal of the objection to claims 2-9 are therefore respectfully requested.

Provisional Double Patenting Rejection

Claim 1 stands provisionally rejected for double patenting under 35 USC section 101 as conflicting with claim 1 of Application Ser. Nos. 11/115,782, 11/115,733, and 11/115,742.

Applicant respectfully disagrees with the rejection.

According MPEP § 804, subsection I.B, which address the situation when the "provisional" double patenting rejection is the only rejection remaining in at least one application:

"If a "provisional" statutory double patenting rejection is the only rejection remaining in one of the applications (but not both), the examiner should withdraw the rejection in that application and permit that application to issue as a patent, thereby converting the "provisional" double patenting rejection in the other application into a double patenting rejection when the application issues as a patent."

See MPEP § 804, subsection I.B.

It is respectfully submitted that the provisional double patenting rejection clearly is the only rejection remaining in the present application, and that currently there is no outstanding rejection in any of the other applications cited by the Examiner. Therefore, it is respectfully submitted that the Examiner should withdraw the provisional double patenting rejection in the present case and permit this application to issue as a patent, in accordance with MPEP § 804, subsection I.B. Reconsideration and withdrawal of the provisional double patenting rejection of claim 1 under 35 USC section 101 are therefore respectfully requested.

Conclusion

Applicant believes the claims are patentable over the prior art, and that this case is in condition for allowance of all claims therin. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicant's attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully submitted,
Cris E. Pasto

Dated: January 31, 2007

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